

CS FOR HOUSE BILL NO. 293(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/16/03

Referred: Today's Calendar

Sponsor(s): HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a state sales and use tax; relating to taxes levied by cities and**
2 **boroughs; providing authority to the Department of Revenue to enter into the**
3 **Streamlined Sales and Use Tax Agreement; relating to the motor fuel tax; relating to the**
4 **definition of 'taxpayer'; relating to the rate of interest on delinquent taxes and**
5 **overpayments of taxes; and providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 28.10.021(a) is amended to read:

8 (a) The owner of a vehicle subject to registration shall apply for registration
9 under this chapter by properly completing the form prescribed by the commissioner
10 under AS 28.05.041. Before the issuance of a certificate of registration by the
11 department, the owner shall
12 (1) pay all registration fees and taxes required under this chapter,
13 [AND] federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal

Revenue Code of 1954), **and the sales or use tax levied under AS 43.44.010;**

(2) unless the owner qualifies as a self-insurer under AS 28.20.400 or is exempted from obtaining liability insurance under AS 28.22.011, certify to the department the existence of a motor vehicle liability policy that complies with AS 28.22.011 for the vehicle being registered; in this paragraph, "certify" means to indicate by check-off on the vehicle registration form prescribed by the department the existence of a policy of insurance, if a policy is required at that time, and the intention to continue the policy or obtain a policy as required by this subsection; and

(3) comply with other applicable statutes and regulations.

* **Sec. 2.** AS 29.10.200(51) is amended to read:

(51) **AS 29.45.650** [AS 29.45.650(c), (d), (e), AND (f)] (sales and use tax);

* **Sec. 3.** AS 29.10.200(52) is amended to read:

(52) **AS 29.45.700** [AS 29.45.700(d)] (sales and use tax);

* **Sec. 4.** AS 29.10.200 is amended by adding a new paragraph to read:

(64) AS 29.45.655 (specific taxes on property and services).

* **Sec. 5.** AS 29.35.110(a) is amended to read:

(a) Borough revenues received through taxes **levied** [COLLECTED] on an areawide basis by the borough may be expended on general administrative costs and on areawide functions only. Borough revenues received through taxes **levied** [COLLECTED] on a nonareawide basis may be expended on general administrative costs and functions that render service only to the area outside all cities in the borough.

* **Sec. 6.** AS 29.35.170 is amended to read:

Sec. 29.35.170. Assessment and collection of taxes. (a) A borough shall assess [AND COLLECT] property [, SALES, AND USE] taxes **and collect taxes, other than general sales and use taxes,** that are levied in its boundaries, subject to AS 29.45.

(b) Taxes, **other than general sales and use taxes,** levied by a city shall be collected by a borough and returned in full to the levying city. This subsection applies to home rule and general law municipalities.

1 * **Sec. 7.** AS 29.35.170 is amended by adding a new subsection to read:

2 (c) Notwithstanding (a) and (b) of this section, AS 29.35.650(c), and
 3 AS 43.44.015(e), a municipality that levies a general sales and use tax may collect the
 4 municipality's general sales and use tax through December 31, 2007. The state shall
 5 assume responsibility for administering a municipal general sales and use tax on
 6 January 1, 2008, unless requested to do so earlier by a municipality that has
 7 conformed its tax base, including exemptions, definitions, and sourcing rules, to
 8 AS 43.44.

9 * **Sec. 8.** AS 29.45.650 is repealed and reenacted to read:

10 **Sec. 29.45.650. General sales and use tax.** (a) Except as provided in
 11 AS 04.21.010(c) and AS 29.45.750, a borough may levy a general sales tax on the sale
 12 and rental of tangible or intangible property and on services provided in the borough.

13 (b) A borough levying a general sales tax may also by ordinance levy a use tax
 14 on the storage, use, or consumption of tangible personal property and on the use of
 15 services in the borough. The use tax rate must equal the sales tax rate, and the use tax
 16 shall be levied only on purchasers.

17 (c) A tax authorized under this section shall be administered and collected by
 18 the state under AS 43.44 and subject to AS 43.44.015. The tax base, including
 19 exemptions to, definitions for, and sourcing rules for a tax authorized under this
 20 section shall be identical to those provided in AS 43.44.

21 (d) After December 31, 2007, a municipality may not levy a sales and use tax
 22 on the sale or use of tangible personal property or the sale of services exceeding six
 23 percent.

24 (e) After December 31, 2009, a municipality may not levy a sales and use tax
 25 on the sale or use of tangible personal property or the sale of services exceeding five
 26 percent.

27 * **Sec. 9.** AS 29.45 is amended by adding a new section to read:

28 **Sec. 29.45.655. Specific taxes on property and services.** A municipality
 29 may levy and collect specific sales or excise taxes on single categories of tangible or
 30 intangible property or services, such as bed taxes, car rental taxes, liquor taxes,
 31 cigarette taxes, motor fuel taxes, and fish taxes.

1 * **Sec. 10.** AS 29.45.660(a) is amended to read:

2 (a) If the borough levies [AND COLLECTS] only a **general** sales tax and use
3 tax, the assembly shall provide a notice substantially in the form set out in
4 AS 29.45.020. In providing notice under this subsection, the assembly shall substitute
5 for the millage equivalency its estimate of the equivalent sales tax rate for each of the
6 categories of financial assistance set out in AS 29.45.020. Notice shall be provided

7 (1) by publishing in a newspaper of general circulation in the borough
8 a copy of the notice once each week for a period of three successive weeks, with
9 publication to occur not later than 45 days after the final adoption of the borough's
10 budget; or

11 (2) if there is no newspaper of general circulation in the borough, by
12 posting a copy of the notice for at least 20 days in at least two public places in the
13 borough, with posting to occur not later than 45 days after the final adoption of the
14 borough's budget.

15 * **Sec. 11.** AS 29.45.700 is repealed and reenacted to read:

16 **Sec. 29.45.700. Power of levy.** A city may levy a sales and use tax in the
17 manner provided for boroughs under AS 29.45.650 and 29.45.660 and subject to the
18 same limitations.

19 * **Sec. 12.** AS 29.45.810(a) is amended to read:

20 (a) A party to a contract approved by the legislature as a result of submission
21 of a proposed contract developed under AS 43.82 or as a result of acts by the
22 legislature in implementing the purposes of AS 43.82, and the property, gas, products,
23 and activities associated with the approved qualified project that is subject to the
24 contract, are exempt, as specified in the contract, from all taxes identified in the
25 contract that would be levied [AND COLLECTED] by a municipality under state law
26 as a consequence of the participation by the party in the approved qualified project.

27 * **Sec. 13.** AS 43.05.225 is amended to read:

28 **Sec. 43.05.225. Interest.** Unless otherwise provided,

29 (1) when a tax levied in this title becomes delinquent, it bears interest
30 in a calendar **year** [QUARTER] at the rate of five percentage points above the annual
31 rate charged member banks for advances by the 12th Federal Reserve District as of the

1 first day of that calendar year [QUARTER, OR AT THE ANNUAL RATE OF 11
 2 PERCENT, WHICHEVER IS GREATER], compounded annually [QUARTERLY]
 3 as of the last day of that calendar year [QUARTER];

4 (2) the interest rate is 12 percent a year for

5 (A) delinquent fees payable under AS 05.15.095(c); and

6 (B) [REPEALED

7 (C)] unclaimed property that is not timely paid or delivered, as
 8 allowed by AS 34.45.470(a).

9 * **Sec. 14.** AS 43.05.499(11) is amended to read:

10 (11) "taxpayer" means a person required to pay or collect a tax,
 11 including a person required to pay a seafood marketing assessment under AS 16.51.

12 * **Sec. 15.** AS 43.40.010(a) is amended to read:

13 (a) There is levied a tax of 20 [EIGHT] cents a gallon on all motor fuel sold or
 14 otherwise transferred within the state, except that

15 (1) the tax on aviation gasoline is four and seven-tenths cents a gallon;

16 (2) the tax on motor fuel used in and on watercraft of all descriptions is
 17 five cents a gallon;

18 (3) the tax on all aviation fuel other than gasoline is three and two-
 19 tenths cents a gallon; [AND]

20 (4) through June 30, 2009 [THE TAX RATE ON MOTOR FUEL
 21 THAT IS BLENDED WITH ALCOHOL IS THE SAME TAX RATE A GALLON
 22 AS OTHER MOTOR FUEL; HOWEVER,

23 (A) IN AN AREA AND DURING THE MONTHS IN WHICH
 24 FUEL CONTAINING ALCOHOL IS REQUIRED TO BE SOLD,
 25 TRANSFERRED, OR USED IN AN EFFORT TO ATTAIN AIR QUALITY
 26 STANDARDS FOR CARBON MONOXIDE AS REQUIRED BY FEDERAL
 27 OR STATE LAW OR REGULATION, THE TAX RATE ON MOTOR FUEL
 28 THAT IS BLENDED WITH ALCOHOL IS SIX CENTS A GALLON LESS
 29 THAN THE TAX ON OTHER MOTOR FUEL NOT DESCRIBED IN (1) -
 30 (3) OF THIS SUBSECTION;

31 (B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,

THROUGH JUNE 30, 2004], the tax on motor fuel sold or otherwise transferred within the state is eight cents a gallon less than the tax on other motor fuel not described in (1) - (3) **and (5)** of this subsection if the motor fuel

(A) [(i)] is at least 10 percent alcohol by volume, has been produced from the processing of lignocellulose derived from wood, and was produced in a facility that processes lignocellulose from wood, but this reduction in the rate of tax applies to motor fuel sold or transferred that contains alcohol that was produced only during the first five years of the facility's processing of lignocellulose from wood; or

(B) [(ii)] is at least 10 percent alcohol by volume, has been produced from the processing of waste seafood, and was produced in a facility that processes alcohol from waste seafood, but this reduction in the rate of tax applies to motor fuel sold or transferred that contains alcohol that was produced only during the first five years of the facility's processing of alcohol from waste seafood; **and**

(5) the tax on motor fuel, as that term is defined in AS 43.40.100, used for heating purposes or generating electricity is two cents a gallon.

* **Sec. 16.** AS 43.40.010(b) is amended to read:

(b) There is levied a tax of **20** [EIGHT] cents a gallon on all motor fuel consumed by a user, except that

(1) the tax on aviation gasoline consumed is four and seven-tenths cents a gallon;

(2) the tax on motor fuel used in and on watercraft of all descriptions is five cents a gallon;

(3) the tax on all aviation fuel other than gasoline is three and two-tenths cents a gallon; [AND]

(4) **through June 30, 2009** [THE TAX RATE ON MOTOR FUEL THAT IS BLENDED WITH ALCOHOL IS THE SAME TAX RATE A GALLON AS OTHER MOTOR FUEL; HOWEVER,

(A) IN AN AREA AND DURING THE MONTHS IN WHICH FUEL CONTAINING ALCOHOL IS REQUIRED TO BE SOLD,

1 TRANSFERRED, OR USED IN AN EFFORT TO ATTAIN AIR QUALITY
 2 STANDARDS FOR CARBON MONOXIDE AS REQUIRED BY FEDERAL
 3 OR STATE LAW OR REGULATION, THE TAX RATE ON MOTOR FUEL
 4 THAT IS BLENDED WITH ALCOHOL IS SIX CENTS A GALLON LESS
 5 THAN THE TAX ON OTHER MOTOR FUEL NOT DESCRIBED IN (1) -
 6 (3) OF THIS SUBSECTION;

7 (B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,
 8 THROUGH JUNE 30, 2004], the tax on motor fuel consumed by a user within
 9 the state is eight cents a gallon less than the tax on other motor fuel not
 10 described in (1) - (3) **and (5)** of this subsection if the motor fuel

11 **(A)** [(i)] is at least 10 percent alcohol by volume, has been
 12 produced from the processing of lignocellulose derived from wood, and was
 13 produced in a facility that processes lignocellulose from wood, but this
 14 reduction in the rate of tax applies to motor fuel consumed by a user that
 15 contains alcohol that was produced only during the first five years of the
 16 facility's processing of lignocellulose from wood; or

17 **(B)** [(ii)] is at least 10 percent alcohol by volume, has been
 18 produced from the processing of waste seafood, and was produced in a facility
 19 that processes alcohol from waste seafood, but this reduction in the rate of tax
 20 applies to motor fuel consumed by a user that contains alcohol that was
 21 produced only during the first five years of the facility's processing of alcohol
 22 from waste seafood; **and**

23 **(5) the tax on motor fuel, as that term is defined in AS 43.40.100,**
 24 **used for heating purposes or generating electricity is two cents a gallon.**

25 * **Sec. 17.** AS 43.40.010(g) is amended to read:

26 (g) The proceeds of the revenue from the tax on all motor fuels, except as
 27 provided in (e), (f), **(j), and (m)** [AND (j)] of this section, shall be deposited in a
 28 special highway fuel tax account in the state general fund. The legislature may
 29 appropriate funds from it for expenditure by the Department of Transportation and
 30 Public Facilities directly or as matched with available federal-aid highway money for
 31 maintenance of highways, construction of highway projects and ferries included in the

1 program provided for in AS 19.10.150, including approaches, appurtenances and
 2 related facilities and acquisition of rights-of-way or easements, and other highway
 3 costs including surveys, administration, and related matters. All departments of the
 4 state government authorized to spend funds collected from taxes imposed by this
 5 chapter shall perform, when feasible, all construction or reconstruction projects by
 6 contract after the projects have been advertised for competitive bids, except that, when
 7 feasible, arrangements shall be made with political subdivisions to carry out the
 8 construction or reconstruction projects. If it is not feasible for the work to be
 9 performed by state engineering forces, the commissioner of transportation and public
 10 facilities may contract on a professional basis with private engineering firms for road
 11 design, bridge design, and services in connection with surveys. If more than one
 12 private engineering firm is available for the work the contracts shall be entered into on
 13 a negotiated basis.

14 * **Sec. 18.** AS 43.40.010 is amended by adding a new subsection to read:

15 (m) An amount equal to the revenue obtained from six cents of the tax
 16 collected under (a) and (b) of this section, excluding the amounts collected under
 17 (a)(1) - (4) and (b)(1) - (4) of this section, shall be separately accounted for in the
 18 special highway fuel tax account under AS 43.40.010(g). The annual estimated
 19 balance of the amount separately accounted for may be appropriated by the legislature
 20 to the Department of Community and Economic Development for distribution to
 21 municipalities as follows:

22 (1) the Department of Community and Economic Development shall
 23 pay to a municipality that has power to provide for road maintenance and exercises
 24 that power an entitlement based on each mile of road, street, or highway maintained
 25 by the municipality, excluding (A) the official state highway system, (B) roads,
 26 streets, or highways not dedicated to public use, (C) roads, streets, or highways
 27 maintained under AS 19.30.111 - 19.30.251 (local service road program), and (D)
 28 alleyways, in accordance with regulations adopted by the Department of
 29 Transportation and Public Facilities; a payment may not be made under this paragraph
 30 for maintenance of a road that is not used by automotive equipment; the entitlement
 31 payable under this paragraph is equal to the per mile entitlement payable under

1 AS 29.60.110(a);

2 (2) the Department of Community and Economic Development shall
 3 pay for a frozen waterway and a connection from an inhabited area to a waterway that
 4 may be safely used for public transportation by automotive equipment and is so used
 5 during a portion of a year; the entitlement payable under this paragraph is \$250 a mile
 6 if the waterway and connection are maintained during the period of use by a
 7 municipality or combination of municipalities; the Department of Community and
 8 Economic Development, after consultation with the Department of Transportation and
 9 Public Facilities, shall determine which waterways and connections qualify and, if the
 10 waterways or connections lie outside the corporate limits of a municipality, which
 11 municipalities shall receive the payments under this paragraph, unless the
 12 municipalities involved have agreed in writing to a particular distribution;

13 (3) payments to a municipality under this subsection shall reflect area
 14 cost-of-living differentials that are calculated and applied under AS 29.60.160; and

15 (4) if amounts appropriated from the balance of the amount separately
 16 accounted for are insufficient to pay each municipality's share authorized under this
 17 subsection, the amounts that are available shall be distributed pro rata among eligible
 18 municipalities.

19 * **Sec. 19.** AS 43.40.015(d) is amended to read:

20 (d) A certificate of use is not required

21 [(1)] for fuel exempted under AS 43.40.100(2)(C) or **(H)** [(J); AND

22 (2) FOR FUEL EXEMPTED UNDER AS 43.40.100(2)(I) OTHER
 23 THAN FUEL SOLD OR TRANSFERRED UNDER THIS EXEMPTION TO A
 24 PERSON WHO IS ENGAGED IN CONSTRUCTION OR MINING ACTIVITY].

25 * **Sec. 20.** AS 43.40.030(a) is amended to read:

26 (a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to
 27 operate an internal combustion engine is entitled to a refund of **all but two** [SIX] cents
 28 a gallon if

29 (1) the tax on the motor fuel has been paid;

30 (2) the motor fuel is not aviation fuel, or motor fuel used in or on
 31 watercraft; and

(3) the internal combustion engine is not used in or in conjunction with a motor vehicle licensed to be operated on public ways.

* **Sec. 21.** AS 43.40.100(2) is amended to read:

(2) "motor fuel" means fuel used in an engine for the propulsion of a motor vehicle or aircraft, [AND] fuel used in and on watercraft for any purpose, or in a stationary engine, machine, or mechanical contrivance that is run by an internal combustion motor, **and fuel used for heating purposes or to generate electricity that is petroleum-based or designed to replace or substitute for a petroleum-based fuel**; "motor fuel" does not include

(A) fuel consigned to foreign countries;

(B) fuel sold for use in jet propulsion aircraft operating in flights

(i) to foreign countries; or

(ii) that continue from foreign countries, unless exemption of the motor fuel from taxation is disallowed because of the refiner's failure to comply with the provisions of a voluntary agreement under AS 43.40.092 in conjunction with expansion of refinery capacity;

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

(E) fuel used by charitable institutions;

(F) fuel sold or transferred between qualified dealers;

(G) fuel sold to federal, state, and local government agencies for official use;

(H) [FUEL USED IN STATIONARY POWER PLANTS THAT GENERATE ELECTRICAL ENERGY FOR PRIVATE RESIDENTIAL CONSUMPTION;

(I) FUEL USED TO HEAT PRIVATE OR COMMERCIAL BUILDINGS OR FACILITIES;

(J)] fuel used for other nontaxable purposes as prescribed by

1 regulations adopted by the department;

2 **(I)** [(K) FUEL USED IN STATIONARY POWER PLANTS
3 OF 100 KILOWATTS OR LESS THAT GENERATE ELECTRICAL
4 POWER FOR COMMERCIAL ENTERPRISES NOT FOR RESALE; OR

5 (L)] residual fuel oil used in and on watercraft if the residual
6 fuel oil is sold or transferred in the state or consumed by a user; for purposes of
7 this subparagraph, "residual fuel oil" means the heavy refined hydrocarbon
8 known as number 6 fuel oil that is the residue from crude oil after refined
9 petroleum products have been extracted by the refining process and that may
10 be consumed or used only when sufficient heat is provided to the oil to reduce
11 its viscosity rated by kinetic unit and to give it fluid properties sufficient for
12 pumping and combustion;

13 * **Sec. 22.** AS 43 is amended by adding a new chapter to read:

14 **Chapter 44. Sales and Use Tax.**

15 **Article 1. Levy and Collection of the Tax.**

16 **Sec. 43.44.010. Levy of sales and use tax.** (a) There is levied a sales tax on
17 sales and rents of tangible personal property and on sales of services.

18 (b) For the privilege of using tangible personal property in this state, there is
19 levied a use tax on the person using tangible personal property acquired on or after
20 January 1, 2004, that was

21 (1) manufactured by the person using the property in this state; or

22 (2) acquired outside this state as the result of a transaction that would
23 have been subject to the sales tax had it occurred in this state.

24 (c) For the privilege of using services in this state, there is levied a use tax on
25 the person using services.

26 (d) The rate of levy of the sales tax levied under (a) of this section and of the
27 use taxes levied under (b) and (c) of this section is three percent of the sales price or
28 purchase price of the tangible personal property or service.

29 **Sec. 43.44.015. Relationship to municipal levies.** (a) The rate of levy under
30 this subsection is decreased in a borough or city that levies taxes under AS 29.45.650
31 or 29.45.700 so that the total sales and use tax levied in that borough or city, including

1 the sales and use tax under this chapter, does not exceed eight percent. This decrease
 2 only applies in conjunction with borough or city sales and use tax rates approved or in
 3 effect on April 1, 2003.

4 (b) A municipality may not increase the rate of a municipal sales and use tax
 5 above the rate approved or in effect on April 1, 2003, if that increase would cause the
 6 total combined state and municipal sales and use taxes in a municipality to exceed
 7 eight percent.

8 (c) Except as provided in (d) of this section, the total combined state and
 9 municipal sales and use taxes in a municipality may not exceed eight percent. In a
 10 municipality

11 (1) subject to both a city sales and use tax and a borough sales and use
 12 tax, if the total combined municipal sales and use tax rates exceed eight percent, the
 13 borough shall be entitled to levy the borough sales and use tax at its full rate, not to
 14 exceed eight percent, the city shall reduce the rate of its sales and use tax accordingly,
 15 and the rate of the state sales and use tax within that municipality shall be zero;

16 (2) subject to both a city sales and use tax and a borough sales and use
 17 tax, where the total combined municipal sales and use tax rates do not exceed eight
 18 percent, the borough shall be entitled to levy the borough sales and use tax at its full
 19 rate, the city shall be entitled to levy the city sales and use tax at its full rate, and the
 20 state shall reduce the rate of the state sales and use tax within that municipality
 21 accordingly;

22 (3) subject only to a borough sales and use tax or a city sales and use
 23 tax, but not both, if the total combined municipal and state sales and use tax rates
 24 exceed eight percent, the municipality shall be entitled to levy the municipal sales and
 25 use tax at its full rate, not to exceed eight percent, and the state shall reduce the rate of
 26 the state sales and use tax within that municipality accordingly.

27 (d) A municipality may levy a general sales and use tax or increase the rate of
 28 an existing sales and use tax so that the combined state and municipal sales tax rate
 29 exceeds eight percent if it is approved as required by municipal ordinance or charter.
 30 In a municipality that imposes a general sales and use tax at a rate that, combined with
 31 a three percent state sales and use tax rate, exceeds eight percent, the rate of the state

1 sales and use tax imposed under this chapter shall be three percent, notwithstanding
2 any other provision of this chapter or AS 29.

3 (e) The department shall collect municipal sales and use taxes levied under
4 AS 29.45.650 or 29.45.700 and remit the proceeds to the municipality. The
5 Department of Revenue may use its administrative authority under AS 43.05 and its
6 enforcement and collection authority under AS 43.10 to collect a sales tax and use tax
7 levied under AS 29.45.650 or AS 29.45.700.

8 **Sec. 43.44.020. Collection of tax.** (a) The tax described in AS 43.44.010(a)
9 is imposed on the purchaser and must be collected by the seller and paid to the
10 department by the seller as provided in AS 43.44.340. The seller holds all taxes
11 collected in trust for the state. The tax must be applied to the sales price.

12 (b) The purchaser of property subject to the tax described in AS 43.44.010(b)
13 is responsible for payment of the tax as provided in AS 43.44.340.

14 (c) The purchaser of services subject to the tax described in AS 43.44.010(c)
15 is responsible for payment of the tax as provided in AS 43.44.340.

16 **Sec. 43.44.030. Presumption of taxability; sales price and purchase price.**

17 (a) In order to prevent evasion of the sales tax and to aid in its administration, it is
18 presumed that

19 (1) all sales by a person engaging in business are subject to the sales
20 tax or use tax; and

21 (2) all property purchased or sold by any person for delivery into this
22 state is purchased or sold for a taxable use in this state.

23 (b) In a sale in which the amount of money paid does not represent the value
24 of the property or service purchased, the use tax must be imposed on the value of the
25 property or service purchased.

26 (c) For purposes of this section, the sales price or purchase price of property
27 must be determined as of the time of acquisition, introduction into this state, or
28 conversion to use, whichever is latest.

29 **Sec. 43.44.040. Separate statement of tax; no advertising to absorb or**
30 **refund tax.** (a) If any person collects a tax in excess of the tax imposed by
31 AS 43.44.010(a), both the tax and the excess tax must be remitted to the department.

(b) The sales tax must be stated separately for all sales, except for sales from coin-operated or currency-operated machines, sales of drinks in a bar, sales on the dock, sales from street vending carts, admission fees, taxi fares, and other sales as determined by regulation by the department.

(c) A person may not advertise, hold out, or state to the public or to any customer that the tax imposed by AS 44.43.010(a) will be absorbed or refunded.

Sec. 43.44.050. Liability of user for payment of use tax. (a) A person in this state who uses property is liable to the state for payment of the use tax if the tax is payable on the purchase price of the property but has not been paid.

(b) The liability imposed by this section is discharged if the purchaser has paid the sales or use tax to the seller for payment to the department.

Sec. 43.44.060. Nexus. To the fullest extent permitted under the Constitution of the United States, a person who has nexus with the State of Alaska and whose sales are not subject to the sales tax shall collect the use tax from the purchaser and pay the tax collected to the department.

Article 2. Exemptions.

Sec. 43.44.090. Exemption: government agencies; licenses; permits. (a) Sales by, sales to, or uses by the United States are exempt from the sales tax and use tax.

(b) Sales to or uses by the state or an instrumentality of the state, as that term is defined in AS 39.52.960, other than a municipality; an unincorporated community; an Indian tribe included on the list published under 25 U.S.C. 479a-1; or a foreign government are exempt from the sales tax and use tax.

(c) Sales by, sales to, or uses by a municipality, other than sales of utilities, are exempt from the sales tax and use tax.

(d) Sales of state licenses or permits are exempt from the sales tax and use tax.

Sec. 43.44.095. Exemption for corporations exempt from taxation under 26 U.S.C. 501(c)(3). Sales by, sales to, or uses by a corporation that is exempt from taxation under 26 U.S.C. 501(c)(3) (Internal Revenue Code) are exempt from the sales tax and use tax.

Sec. 43.44.097. Exemption for dues exempt from taxation under 26 U.S.C.

1 **501(c)(5).** Union dues paid to an organization that is exempt under 26 U.S.C.
 2 501(c)(5) are exempt from the sales tax and use tax.

3 **Sec. 43.44.100. Exemption for food stamps and special supplemental**
 4 **nutrition program for women, infants, and children.** The sale of an item lawfully
 5 purchased with food stamp program benefits issued under 7 U.S.C. 2011 - 2025 (Food
 6 Stamp Act) or purchased with food instruments, food vouchers, or other type of
 7 certificate issued under 42 U.S.C. 1786 (special supplemental nutrition program for
 8 women, infants, and children) is exempt from the sales tax and use tax.

9 **Sec. 43.44.110. Exemption for intangibles.** The following are exempt from
 10 the sales tax and use tax, even if they are construed to be tangible personal property or
 11 a service:

12 (1) wages, salaries, commissions, tips, and any other form of
 13 remuneration for personal services if paid by an employer to an employee; the terms
 14 used in this section have the meanings given in 26 U.S.C. 3121 (Internal Revenue
 15 Code);

16 (2) interest on money loaned or deposited;

17 (3) dividends or interest from stocks, bonds, or securities; and

18 (4) proceeds from the sale of stocks, bonds, or securities.

19 **Sec. 43.44.120. Financial services.** The following are exempt from the sales
 20 tax and use tax:

21 (1) fees for services associated with a deposit account;

22 (2) fees for purchases of cashier's checks, money orders, traveler's
 23 checks, currency, and similar products used for payment and transfer of funds;

24 (3) loan transaction pass-through charges that include sales tax;

25 (4) loan fees; and

26 (5) services related to the sale or purchase of financial instruments
 27 including stocks, bonds, and securities.

28 **Sec. 43.44.130. Games of chance and contests of skill.** Sales authorized by
 29 AS 05.15 are exempt from the sales tax and use tax.

30 **Sec. 43.44.140. Exemption for isolated or occasional sale or lease of**
 31 **property or services.** The isolated or occasional sale or lease of property or the

1 performance of a service by a person who is not regularly engaged in or who does not
 2 intend to engage in the business of selling or leasing the same or a similar property or
 3 service is exempt from the sales tax and use tax. Occasional sales include sales that
 4 are occasional but not continuous and that are made for the purpose of fundraising by
 5 nonprofit organizations, including youth clubs, service clubs, and fraternal
 6 organizations.

7 **Sec. 43.44.150. Exemption for personal effects.** The use by an individual of
 8 personal or household effects brought into the state for the establishment by the
 9 individual of an initial residence in this state and the use of property brought into the
 10 state by a nonresident for the nonresident's own nonbusiness use while temporarily
 11 within this state is exempt from the use tax.

12 **Sec. 43.44.155. Exemption for motor vehicles, watercraft, aircraft, and**
 13 **mobile homes.** The sales price, purchase price, or cost of the substantial rehabilitation
 14 of a motor vehicle, watercraft, aircraft, or mobile home in excess of \$5,000 is exempt
 15 from the sales tax and use tax. For purposes of this section, "motor vehicle" has the
 16 meaning given in AS 28.40.100.

17 **Sec. 43.44.160. Sales for resale.** A sale for resale and associated
 18 transportation is exempt from the sales tax and use tax if the subsequent sale is made

19 (1) in the ordinary course of business and subject to tax under
 20 AS 43.44.010(a); or

21 (2) to a purchaser who delivers to the reseller an exemption certificate
 22 for that sale.

23 **Sec. 43.44.165. Transactions between certain persons.** (a) Services among
 24 affiliated persons that report their income under 26 U.S.C. on a single consolidated
 25 return are exempt from the sales tax and use tax.

26 (b) A transaction that relates to a joint interest or partnership and that occurs
 27 between the holders of the interests, or between the partners, is exempt from the sales
 28 tax and use tax.

29 **Sec. 43.44.170. Exemption for real property.** The sale, lease, rental, and
 30 construction of real property are exempt from the sales tax and use tax. For purposes
 31 of this section, the sale and transportation of tangible personal property that is

1 subsequently converted to real property is taxable unless the conversion is part of the
 2 construction of real property or construction of an addition to real property.

3 **Sec. 43.44.175. Exemption for certain fuel sold for use in jet propulsion**
 4 **aircraft.** Fuel sold for use in jet propulsion aircraft operating in flights to or from
 5 foreign countries is exempt from the sales tax and use tax.

6 **Sec. 43.44.180. Manufacturing and natural resource extraction.** (a)
 7 Property and services used for operation and maintenance by a person engaged in
 8 manufacturing or natural resource extraction are exempt from the sales tax and use
 9 tax.

10 (b) For purposes of this section,

11 (1) "natural resource extraction" includes exploration for and
 12 extraction of minerals, oil and gas, fish and seafood, and timber and other forest
 13 products;

14 (2) "property and services used for operation and maintenance"

15 (A) includes supplies, components and ingredients that are
 16 incorporated into a manufacturing process, manufactured product, or extracted
 17 resource, and transportation of supplies, components, and ingredients that are
 18 incorporated into a manufactured product or extracted resource;

19 (B) does not include capital property capitalized in the person's
 20 books and records; services rendered to fabricate, construct, and install the
 21 tangible personal property constituting a capital asset may not be included in
 22 the taxable cost of that capital asset.

23 **Sec. 43.44.190. Exemption for property held for lease.** The sale, use, lease,
 24 or rental of property held for lease is exempt from the sales tax and use tax if the
 25 person holding the property for lease, or purchasing, leasing, or renting the property
 26 for the purpose of holding the property for lease

27 (1) is engaged in a business that derives more than 50 percent of its
 28 receipts from leasing or selling property of the type held;

29 (2) does not use the property in any manner other than holding it for
 30 lease or sale or leasing or selling it either by itself or in combination with other
 31 tangible personal property in the ordinary course of business;

1 (3) does not use the property in a manner incidental to the performance
2 of a service; and

3 (4) the subsequent lease or rental is subject to the tax imposed by
4 AS 43.44.010(a).

5 **Sec. 43.44.200. Exemption for transactions subject to other taxes and fees.**

6 (a) Insurance premiums subject to tax under AS 21.09.210 are exempt from the sales
7 tax and use tax.

8 (b) Motor fuel transactions subject to tax under AS 43.40 are exempt from the
9 sales tax and use tax.

10 (c) Transactions subject to tax under AS 43.52 are exempt from the sales tax
11 and use tax.

12 **Sec. 43.44.210. Exemption for certain intrastate transportation and**
13 **services in interstate commerce.** (a) The transport of property from one point within
14 this state to another point within this state is exempt from the sales tax and use tax if
15 the property, including any reasonably necessary services, is being transported in
16 interstate or foreign commerce.

17 (b) Handling, storage, drayage, or packing of property or another accessorial
18 service on property is exempt from the sales tax and use tax if

19 (1) the property has been or will be moved in interstate or foreign
20 commerce;

21 (2) the services are performed by a local agent for a carrier or by a
22 carrier.

23 **Sec. 43.44.220. Exemption for health care.** The following are exempt from
24 the sales tax and use tax:

25 (1) health care services provided by a person licensed or certified to
26 provide those services under AS 08 or a "health care facility" as that term is defined in
27 AS 08.68.395(g)(2);

28 (2) drugs, durable medical equipment, mobility enhancing equipment,
29 and prosthetic devices obtained on prescription from a person licensed to prescribe
30 those goods under AS 08 or from a health care facility, as that term is defined in
31 AS 08.68.395(g)(2).

1 **Sec. 43.44.230. Exemption for child care services.** Child care services are
2 exempt from the sales tax and use tax.

3 **Article 3. Collection and Payment Provisions.**

4 **Sec. 43.44.240. Tax credit for sales or use tax paid to another state.** A
5 buyer liable for use tax on tangible personal property or services is entitled to a full
6 credit for the amount of sales or use tax paid on the tangible personal property or
7 services to another state.

8 **Sec. 43.44.250. Exempt sales.** All exempt sales under AS 43.44.090 -
9 43.44.230 must be documented in an invoice. The department shall prescribe by
10 regulation the requirements for an invoice.

11 **Sec. 43.44.252. Exemption certificate: form.** (a) The department shall
12 provide for a uniform exemption certificate. A purchaser shall use the certificate
13 when purchasing goods or services for resale or for other exempt transactions.

14 (b) The certificate must include

15 (1) the number of the seller's permit issued to the purchaser as
16 provided in AS 43.44.260 or the number of the direct pay permit issued to the
17 purchaser as provided in AS 43.44.255, as applicable;

18 (2) the general character of property or service sold by the purchaser in
19 the regular course of business;

20 (3) the name and address of the purchaser; and

21 (4) the signature or electronic signature of the purchaser.

22 **Sec. 43.44.254. Exemption certificate: requirements.** (a) An exemption
23 certificate executed by a purchaser or lessee must be in the possession of the seller or
24 lessor at the time that an exempt transaction occurs.

25 (b) An exemption certificate must contain the information and be in a format
26 prescribed by the department.

27 (c) If the seller or lessor accepts an exemption certificate and believes in good
28 faith that the purchaser or lessee will employ the property or service transferred in an
29 exempt manner, the properly executed exemption certificate is considered conclusive
30 evidence, as to the seller or lessor, that the sale is exempt.

31 **Sec. 43.44.255. Direct pay permit.** A direct pay permit authorizes its holder

1 to purchase tangible personal property and services without paying tax to the seller
 2 and authorizes the seller to not collect any tax on a sale to the permit holder. A person
 3 who purchases tangible personal property or services under a direct pay permit issued
 4 under this section is liable for any sales and use tax due. The tax due must be paid by
 5 the permit holder on a quarterly basis on a schedule established by the department. To
 6 obtain a direct pay permit, a person must apply to the department and satisfy criteria
 7 for direct pay permit holders established by the department by regulation.

8 **Sec. 43.44.260. Seller's permit.** (a) A person wishing to engage in business
 9 in this state shall obtain a seller's permit before engaging in business in this state.

10 (b) Upon an applicant's compliance with this chapter, the department shall
 11 issue to the applicant a numbered seller's permit. A permit is valid until revoked or
 12 suspended but is not assignable. A permit is valid only for the person in whose name
 13 it is issued. A copy of the permit must be conspicuously displayed at all times at the
 14 place for which it is issued.

15 **Sec. 43.44.270. Permit application: requirements; place of business; form.**
 16 (a) A person wishing to engage in business in this state shall file with the department
 17 an application for a seller's permit. If the person has more than one location in which
 18 the person maintains an office or other place of business, an application may include
 19 multiple locations. A vending machine operator who has more than one vending
 20 machine location is considered to have only one place of business for purposes of this
 21 section. An applicant who does not maintain an office or other place of business and
 22 who moves from place to place is considered to have only one place of business and
 23 shall attach the permit to the applicant's cart, stand, truck, or other merchandising
 24 device.

25 (b) Each application for a permit must be on a form or in a format prescribed
 26 by the department and must set out the name under which the applicant intends to
 27 transact business, the location of the applicant's place or places of business, and other
 28 information that the department may require. The application must be filed by the
 29 owner if the owner is a natural person, by a member or partner if the owner is an
 30 association or partnership, or by a person authorized to sign the application if the
 31 owner is a corporation.

1 **Sec. 43.44.280. Revocation or suspension of permit: hearing; notice;**
 2 **appeal.** (a) Subject to the provisions of (b) of this section, the department may
 3 revoke or suspend a permit held by a person who fails to comply with the provisions
 4 of this chapter.

5 (b) The department shall provide written notice and an opportunity for a
 6 hearing on a proposed revocation or suspension. The hearing must be conducted
 7 informally and is not subject to AS 44.62 (Administrative Procedure Act).

8 (c) If a permit is revoked, the department may not issue a new permit except
 9 upon application accompanied by reasonable evidence of the intention of the applicant
 10 to comply with the provisions of this chapter. The department may, as a condition for
 11 the issuance of a new permit to the applicant, require security in addition to that
 12 authorized by AS 43.44.370 in an amount reasonably necessary to ensure compliance
 13 with this chapter.

14 (d) A person aggrieved by the department's final decision to revoke a permit
 15 as provided in (a) of this section may appeal the decision to the superior court.

16 **Sec. 43.44.290. Improper use of subject of purchase obtained with**
 17 **exemption certificate; penalty.** (a) If a purchaser who uses an exemption certificate
 18 uses the subject of the purchase for a purpose other than one allowed as exempt under
 19 this chapter, the sale is considered a taxable sale as of the time of first use by the
 20 purchaser, and the sales price is the price that the purchaser paid. If the sole
 21 nonexempt use is rental while holding for sale, the purchaser shall include in the sales
 22 price the amount of the rental charged. Upon subsequent sale of the property, the
 23 seller shall include the entire amount of the sales price, without deduction of amounts
 24 previously received as rentals.

25 (b) A person who uses an exemption certificate for property that will be used
 26 for purposes other than the purpose claimed is subject to a penalty, payable to the
 27 department, of \$100 or 100 percent of the tax due, whichever is greater, for each
 28 transaction in which an improper use of a certificate has occurred.

29 **Sec. 43.44.300. Commingling exemption certificate property.** If a
 30 purchaser uses an exemption certificate with respect to the purchase of fungible
 31 tangible personal property and commingles the property with fungible property that

1 was not purchased with an exemption certificate but that is so similar that the identity
 2 of the property in the commingled mass cannot be determined, sales from the mass of
 3 commingled property are considered to be sales of the property purchased with the
 4 certificate until the quantity of commingled property sold equals the quantity of
 5 property originally purchased under the certificate.

6 **Sec. 43.44.310. Liability for payment of tax; security for retailer without**
 7 **place of business; penalty.** (a) Liability for the payment of the sales tax and use tax
 8 is not extinguished until the taxes have been paid to the department.

9 (b) A retailer who does not maintain an office or other place of business in this
 10 state is liable for the sales tax or use tax on all property sold or leased and services
 11 provided in this state in accordance with this chapter and may be required to furnish
 12 adequate security as provided in AS 43.44.370 to ensure collection and payment of the
 13 taxes. When authorized and except as otherwise provided in this chapter, the retailer
 14 is liable for the taxes on all property sold and services provided in this state in the
 15 same manner as a retailer who maintains an office or other place of business in this
 16 state. The seller's permit provided for in AS 43.44.260 may be canceled at any time if
 17 the department considers the security inadequate.

18 (c) An agent, canvasser, or employee of a retailer doing business in this state
 19 who does not possess a seller's permit issued by the department may not sell, solicit
 20 orders for, or deliver property or services in Alaska. If an agent, canvasser, or
 21 employee violates the provisions of this chapter, the person is subject to a penalty of
 22 not more than \$100, or 100 percent of the tax due, whichever is greater, for each
 23 separate transaction or event.

24 **Sec. 43.44.330. Method of accounting.** A person who has a seller's permit or
 25 direct pay permit shall report and pay the sales and use tax using the same method of
 26 accounting that the person uses for federal tax purposes.

27 **Sec. 43.44.340. Returns: payment; authority of department.** (a) A person
 28 who has a tax liability under AS 43.44.010 shall file a return on a form or in a format
 29 prescribed by the department and pay the tax due monthly. The return shall be filed
 30 and the tax paid on or before the last day following the end of the month for which the
 31 tax is due. Each person engaged in business in this state or using property in this state

1 that is subject to taxation under AS 43.44.010 shall file a return.

2 (b) For the purposes of the sales tax or use tax, a return must be filed by

3 (1) a retailer required to collect the tax; and

4 (2) a person who

5 (A) purchases an item the storage, use, or other consumption of
6 which is subject to the sales tax or use tax; and

7 (B) has not paid the tax to a retailer required to pay the tax.

8 (c) Each return must be authenticated by the person filing the return or by the
9 person's agent authorized in writing to file the return.

10 **Sec. 43.44.345. Methods.** (a) The department shall adopt regulations
11 providing for payment of the sales and use tax based on a rounding method.

12 (b) The department may use sampling principles or methods in lieu of 100
13 percent examination of records in conducting a sales tax or use tax audit.

14 **Sec. 43.44.350. Deduction for bad debts.** (a) A person filing a return under
15 AS 43.44.340 may deduct sales found to be worthless. The bad debt may be deducted
16 when it

17 (1) is written off as uncollectable in the person's books and records;
18 and

19 (2) qualifies as a deduction for federal income tax purposes under 26
20 U.S.C. (Internal Revenue Code).

21 (b) If the amount of bad debt exceeds the amount of taxable sales during the
22 period that the bad debt is written off, a person may file a refund claim with the
23 department.

24 (c) If a bad debt deducted under (a) of this section is subsequently collected,
25 the person who claimed the deduction shall pay the tax levied under AS 43.44.010 on
26 the amount collected. For purposes of this subsection, any payments made on a debt
27 or account are applied

28 (1) first to the taxable price of the property or service and the tax
29 levied under AS 43.44.010 on the property or service, then

30 (2) to interest, service charges, and any other charges.

31 **Sec. 43.44.360. Timely filing allowance.** (a) A person filing a return under

1 AS 43.44.340 may claim an allowance in the amount of two percent of the tax
 2 determined to be payable to the state or \$75 a month, whichever is less, if the return is
 3 timely filed and the tax is timely paid.

4 (b) The allowance may be deducted on the return. The allowance may not be
 5 greater than the tax determined to be payable to the state.

6 **Sec. 43.44.370. Security: limitations; sale of security deposit at auction;**
 7 **bond.** (a) The department may require a retailer to deposit with the department
 8 security in a form and amount that the department determines is appropriate. The
 9 deposit may not be more than twice the estimated average liability for the period for
 10 which the return is required to be filed or \$10,000, whichever is less. The amount of
 11 security may be increased or decreased by the department, subject to the limitations
 12 provided in this section.

13 (b) If necessary, the department may sell at public auction property deposited
 14 as security to recover a sales tax or use tax amount required to be collected, including
 15 interest and penalties. Notice of the sale must be served personally on or sent by
 16 certified mail to the person who deposited the security. After the sale, any surplus
 17 above the amount due that is not required as security under this section must be
 18 returned to the person who deposited the security.

19 (c) In lieu of security, the department may require a retailer to file a bond
 20 issued by a surety company authorized to transact business in this state to guarantee
 21 solvency and responsibility.

22 (d) In addition to the other requirements of this section, the department may
 23 require the corporate officers, directors, or shareholders of a corporation to provide a
 24 personal guaranty and assumption of liability for the payment of the tax due under this
 25 chapter.

26 **Sec. 43.44.380. Taxpayer quitting business; liability of successor.** (a) All
 27 taxes payable under this chapter are due and payable immediately whenever a
 28 taxpayer quits business, sells, exchanges, or otherwise disposes of the business or
 29 disposes of the stock of goods. The taxpayer shall make a return and pay the taxes due
 30 within 10 days after the taxpayer quits business, sells, exchanges, or otherwise
 31 disposes of the business or disposes of the stock of goods.

1 (b) Except as provided in (d) of this section, a person who becomes a
 2 successor in the taxpayer's business or stock of goods is liable for the full amount of
 3 the tax and shall withhold from the sales price payable to the taxpayer a sum sufficient
 4 to pay any tax due until the taxpayer produces either a receipt from the department
 5 showing payment in full of any tax due or a statement from the department that tax is
 6 not due.

7 (c) If a tax is due but has not been paid as provided in (a) of this section, the
 8 successor is liable for the payment of the full amount of tax. The payment of the tax
 9 by the successor is considered to be a payment on the sales price and, if the payment is
 10 greater in amount than the sales price, the amount of the difference becomes a debt
 11 due to the successor from the taxpayer owing the tax under (a) of this section.

12 (d) A successor is not liable for any tax due from the person from whom the
 13 successor acquired a business or stock of goods if (1) the successor gives written
 14 notice to the department of the acquisition; and (2) an assessment is not issued by the
 15 department against the former operator of the business within six months after receipt
 16 of the notice from the successor. If an assessment is issued by the department and a
 17 copy of the assessment is not mailed to the successor, the successor is not liable for the
 18 tax due.

19 **Sec. 43.44.390. Tax as debt.** (a) The tax imposed by this chapter and related
 20 interest and penalties become a personal debt of the person required to file a return
 21 from the time the liability arises, regardless of when the time for payment of the
 22 liability occurs.

23 (b) If the personal representative of an estate has voluntarily distributed the
 24 assets held in that capacity without reserving sufficient assets to pay the taxes, interest,
 25 and penalties, the personal representative is personally liable for any deficiency, to the
 26 extent permitted under AS 13.16.

27 (c) This section applies to corporate officers, directors, or shareholders
 28 required by the department to personally guarantee the payment of the taxes for their
 29 corporation. The officer or employee of a corporation whose duty it is to collect,
 30 truthfully account for, and pay to the state the taxes imposed by this chapter and who
 31 fails to pay the taxes is liable to the state for the taxes imposed by this chapter and the

1 penalty and interest due on the taxes.

2 **Sec. 43.44.400. Refunds and credits.** The department may credit or refund
3 overpayments of taxes, taxes erroneously or illegally assessed or collected, penalties
4 collected without authority, and taxes that are found unjustly assessed or excessive in
5 amount, or otherwise wrongfully collected. The department shall set limitations,
6 specify the manner in which claims for credits or refunds are made, and give notice of
7 allowance or disallowance. When a refund is allowed to a taxpayer, it shall be paid
8 out of the general fund on a warrant issued under a voucher approved by the
9 department.

10 **Article 4. General Provisions.**

11 **Sec. 43.44.490. Authority to enter streamlined sales tax agreement.** (a)
12 The department is authorized and directed to enter into the Streamlined Sales and Use
13 Tax Agreement with one or more states to simplify and modernize sales and use tax
14 administration in order to substantially reduce the burden of tax compliance for all
15 sellers and for all types of commerce. In furtherance of the Streamlined Sales and Use
16 Tax Agreement, the department is authorized to act jointly with other states that are
17 members of the Streamlined Sales and Use Tax Agreement to establish standards for
18 certification of a certified service provider and certified automated system and
19 establish performance standards for multistate sellers.

20 (b) The department shall adopt regulations implementing this chapter
21 consistent with the Streamlined Sales and Use Tax Agreement.

22 (c) The department is authorized to take other actions reasonably required to
23 implement the provisions set out in this section.

24 (d) The department or the department's designee is authorized to represent this
25 state before the other states that are signatories to the Streamlined Sales and Use Tax
26 Agreement.

27 **Sec. 43.44.492. Electronic registration, filing, and forms.** (a) The
28 department may participate in any electronic sales and use tax registration system
29 made available in cooperation with other states through the Streamlined Sales and Use
30 Tax Agreement.

31 (b) The department may use and accept a standard electronic exemption form

1 made available in cooperation with other states through the Streamlined Sales and Use
2 Tax Agreement.

3 (c) The department may prescribe and provide for use of forms, certificates,
4 permits, and other documents required under this chapter in electronic format,
5 including the use of electronic signatures and authentications, and for electronic filing.

6 **Sec. 43.44.494. Field offices.** The Department of Revenue may contract with
7 a municipality that, on the effective date of this section, levies a sales and use tax to
8 provide a field office for that municipality's geographical area of the state.

9 **Sec. 43.44.500. Definitions.** In this chapter,

10 (1) "consideration" means a valuable inducement and includes, without
11 limitation, money, property, and services;

12 (2) "electronic signature" has the meaning given in AS 09.25.520(a);

13 (3) "engaging in business" means carrying on or causing to be carried
14 on any activity with the purpose of direct or indirect benefit;

15 (4) "lease," "leasing," or "rental," regardless of whether a transaction is
16 characterized as a lease or rental under generally accepted accounting principles, 26
17 U.S.C. (Internal Revenue Code), AS 45.01 - AS 45.08, AS 45.12, AS 45.14, and
18 AS 45.29 (Uniform Commercial Code), or other provisions of federal, state, or local
19 law,

20 (A) means a transfer of possession or control of tangible
21 personal property for a fixed or indeterminate term for consideration; a lease or
22 rental may include future options to purchase or extend;

23 (B) does not include

24 (i) a transfer of possession or control of property under
25 a security agreement or deferred payment plan that requires the transfer
26 of title upon completion of the required payments;

27 (ii) a transfer of possession or control of property under
28 an agreement that requires the transfer of title upon completion of
29 required payments if payment of an option price does not exceed the
30 greater of one hundred dollars or one percent of the total required
31 payments; or

(iii) providing tangible personal property along with an operator for a fixed or indeterminate period of time; a condition of this exclusion is that the operator is necessary for the equipment to perform as designed; for the purpose of this sub-subparagraph, an operator must do more than maintain, inspect, or set up the tangible personal property;

(C) includes agreements covering motor vehicles and trailers if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. 7701(h)(1);

(5) "maintaining an office or other place of business" means

(A) a person's having or maintaining in this state, directly or by an affiliate, an office, distribution house, sales house, warehouse, or place of business; or

(B) an agent's operating within this state under the authority of the person or its affiliate, whether the place of business or agent is located in the state permanently or temporarily or whether the person or affiliate is authorized to do business in the state;

(6) "manufacturing" means combining or processing components or materials, including the processing of ores in a mill, smelter, refinery, or reduction facility, to increase the value of the components or materials for sale in the ordinary course of business; "manufacturing" does not include construction;

(7) "permit" or "seller's permit" means a seller's permit as described in AS 43.44.260;

(8) "person" means an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity, including a gas, water, or electric utility owned or operated by a borough, municipality, or other political subdivision of the state;

(9) "purchase price" means "sales price" and applies to the measure subject to use tax;

(10) "sale," "selling," or "purchasing" means the transfer of property for consideration or the performance of a service for consideration;

1 (11) "sales price"

2 (A) means the total amount of consideration, including cash,
3 credit, property, and services, for which personal property or services are sold,
4 leased, or rented, valued in money, whether received in money or otherwise,
5 without any deduction for the following:

6 (i) the seller's cost of the property sold;

7 (ii) the cost of materials used, labor or service cost,
8 interest, losses, all costs of transportation to the seller, all taxes
9 imposed on the seller, and any other expense of the seller;

10 (iii) charges by the seller for any services necessary to
11 complete the sale, other than delivery and installation charges;

12 (iv) delivery charges;

13 (v) installation charges;

14 (vi) the value of exempt personal property given to the
15 purchaser where taxable and exempt personal property have been
16 bundled together and sold by the seller as a single product or piece of
17 merchandise;

18 (vii) credit for a trade-in, as determined by state law;

19 (B) does not include

20 (i) discounts, including cash, term, or coupons that are
21 not reimbursed by a third party that are allowed by a seller and taken by
22 a purchaser on a sale;

23 (ii) interest, financing, and carrying charges from credit
24 extended on the sale of personal property or services if the amount is
25 separately stated on the invoice, bill of sale, or similar document given
26 to the purchaser; and

27 (iii) taxes legally imposed directly on the consumer that
28 are separately stated on the invoice, bill of sale, or similar document
29 given to the purchaser;

30 (12) "sales tax" or "use tax" means the applicable tax imposed by

31 AS 43.44.010;

(13) "service" means an activity that is engaged in for another person for consideration and that is distinguished from the sale or lease of property; in determining what a service is, the intended use, principal objective, or ultimate objective of the contracting parties is irrelevant; "service" includes

(A) activities performed by a person for its members or shareholders;

(B) construction activities and all tangible personal property that will become an ingredient or component part of a construction project; and

(C) labor; professional services; transportation; telephone or other communications service; entertainment, including cable, subscription, or pay television or other telecommunications service; the supplying of food, lodging, or other accommodations in hotels, restaurants, or elsewhere; admission to exhibitions; the use of a computer, computer time, a computer system, a computer program, a computer network, or any part of a computer system or network; and the supplying of equipment for use;

(14) "tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses; "tangible personal property" includes electricity, water, gas, steam, and prewritten computer software;

(15) "tax" means the tax levied by AS 43.44.010;

(16) "unincorporated community" means a place that is not incorporated as a city and in which 25 or more persons reside as a social unit;

(17) "use" or "using" includes use, consumption, or storage, other than storage for resale or for use solely outside this state in the ordinary course of business.

* **Sec. 23.** Section 4, ch. 100, SLA 2002, is repealed and reenacted to read:

Sec. 4. AS 29.45.650(a) is amended to read:

(a) Except as provided in AS 04.21.010(c) [AND AS 29.45.750], a borough may levy a general sales tax on the sale and rental of tangible or intangible property and on services provided in the borough.

* **Sec. 24.** AS 29.35.170(c) is repealed January 1, 2008.

* **Sec. 25.** The uncoded law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITIONAL PROVISIONS. (a) The Department of Revenue may proceed to
3 adopt regulations necessary to implement this Act. The regulations take effect under
4 AS 44.62 (Administrative Procedure Act), but not before the effective date of the provision
5 being implemented.

6 (b) Notwithstanding AS 29.45.650(c), as amended by sec. 8 of this Act, a
7 municipality that imposes a general sales and use tax is not required to conform its tax base,
8 including exemptions, definitions, and sourcing rules, to AS 43.44 until January 1, 2006.

9 (c) Notwithstanding any other provision of state law, actions taken by the Department
10 of Revenue and any other department, division, or office in the executive branch of state
11 government before July 1, 2004 to implement the provisions of this Act are exempt from the
12 requirements of AS 36.30 (State Procurement Code).

13 (d) Before the first day of the Second Session of the Twenty-Third Alaska State
14 Legislature, the department shall provide a written report to the legislature and the office of
15 management and budget describing:

16 (1) regulations adopted by the department to implement the sales tax and use
17 tax;

18 (2) issues that need to be addressed through legislation in order for the sales
19 tax and use tax to be effective; and

20 (3) an estimate of the amount of revenue attributable to the sales tax and use
21 tax.

22 (e) Services under a contract executed and paid in full before the effective date of sec.
23 22 of this Act and performed within 12 months after the effective date of sec. 22 of this Act
24 are exempt from the sales tax and use tax.

25 * **Sec. 26.** The uncoded law of the State of Alaska is amended by adding a new section to
26 read:

27 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the
28 application of it to any person or circumstances is held invalid, the remainder of this Act and
29 the application to other persons or circumstances are not affected.

30 * **Sec. 27.** The uncoded law of the State of Alaska is amended by adding a new section to
31 read:

1 CONDITIONAL EFFECT. The exemption in AS 43.44.200(c), enacted by sec. 22 of
2 this Act, takes effect only if a bill passed by the Twenty-Third Alaska State Legislature
3 providing for the levy and collection of a tax on motor vehicle rentals is enacted into law.

4 * **Sec. 28.** If the exemption in AS 43.44.200(c), enacted by sec. 22 of this Act, takes effect,
5 it takes effect on the day the tax referred to in sec. 27 of this Act takes effect or January 1,
6 2004, whichever is later.

7 * **Sec. 29.** Section 25 of this Act takes effect immediately under AS 01.10.070(c).

8 * **Sec. 30.** Sections 15 - 21 of this Act take effect July 1, 2003.

9 * **Sec. 31.** Except as provided in secs. 28 - 30 of this Act, this Act takes effect January 1,
10 2004.